

REMARKS/ARGUMENTS

Examiner is requiring restriction to one of the following groups:

Group I: Claims 23-40, drawn to culture medium (first product) and method of use; and

Group II: Claims 41-44, drawn to a second product.

Applicants elect, with traverse, Group I, Claims 23–40 (drawn to a culture medium and method of use), for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with the others (MPEP § 1893.03(d)), i.e. why a single general inventive concept is nonexistent. The lack of a single inventive concept must be specifically described.

The Examiner has argued that Groups I and II are not linked to form a single general inventive concept under PCT Rule 13.1 for the following reason: “Although the viruses of group II are described in terms of the method by which they are made, identical viruses could be made by materially different methods, such as growth in eggs or in cultured fibroblasts”

However, Applicants contend that the culture of claims 23 to 31 and 32 to 40 are new and inventive and they are the only culture medium and method which permit the obtention of a complete acellular, live, attenuated enveloped DNA virion from a FPV virus. Therefore, the two methods suggested by the Examiner for obtaining this virus are unsuitable.

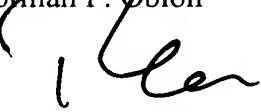
For the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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